



AZ POST
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The Arizona Peace Officer Standards and Training Board (AZPOST) is mandated by the legislature to establish and enforce the physical, mental, and moral fitness standards for all peace officers in the state. The Board meets the charge to protect the public by overseeing the integrity of Arizona's law enforcement officers by reviewing cases and taking action against the certification of individuals who violate the AZPOST Rules. The following is a summary of the actions taken by the Arizona Peace Officer Standards and Training Board at its **December 2002, and January, February, and March 2003** public meetings. These actions are not precedent setting, in the sense that similar cases will end with the same result, because each case is considered on its individual facts and circumstances. Having said that, the Board publishes this bulletin to provide insight into the Board's position on various types of officer misconduct. As always, the Compliance Specialist for your agency is available to discuss any matter and to assist you with any questions you might have. Any "Editor Notes" or "Frequently Asked Questions" sections are historical observations and insights for training and discussion purposes only.

The Board accepted voluntary relinquishment of peace officer certification from three peace officers. The relinquishments are permanent and have the same force and effect as a revocation, but there are no findings of misconduct. The allegations that preceded the relinquishments, none of them proven, are as follows:

- A town marshal falsely reported an on-duty shooting incident to law enforcement and was dishonest on AZPOST Personal History Forms.
- A lieutenant instructed a subordinate to alter a time accounting sheet to reflect information that he knew was false, and then he initially denied that he had given those instructions.
- An officer provided false information on her AZPOST Personal History Form and to the polygraph examiner about her history of arrests.

CASE NO. 1

DISHONESTY AND SEXUAL CONDUCT

Deputy A, while off duty, made arrangements to have a massage under circumstances that would lead a reasonable peace officer to believe the masseuse may have been a prostitute. He was receiving a massage when peace officers from another agency busted the residence for operating a massage parlor without a license. No sexual acts took place, but the deputy admitted that he may have allowed them to if the massage had not been interrupted. In addition, a merit board found that he was not forthcoming with all of the important information when questioned. The Board adopted a consent agreement calling for a one-year suspension of peace officer certification.

CASE NO. 2

SEXUAL MISCONDUCT

An agency received an anonymous telephone complaint that an officer had caused two females to expose their breasts to him because he wanted to search for drugs. Investigators were able to trace the

number back to a housing complex and subsequently identified the two females in question. While walking to a convenience market, the women were approached by an officer who requested permission to search for drugs. He directed them to raise their blouses and bras to let him see that no drugs were stashed in them. They provided the vehicle number to investigators, which led them to Officer B. Officer B admitted stopping and talking to them, but denied any misconduct. At the conclusion of the interview, Officer B resigned. He neither requested a hearing nor offered any defense to the allegations. The Board revoked his certification for malfeasance in office.

CASE NO. 3

ASSAULT AND MISCONDUCT WITH A WEAPON

Officer D was in a deferred prosecution program for an assault, upon his then girlfriend in May of 2000, and then in August of 2001, Officer D escorted a man who was visiting the former girlfriend, (now roommate) out of his house with a gun to the back of his head. He pled guilty to disorderly conduct involving a weapon. Officer D requested a hearing. An administrative law judge of the Office of Administrative Hearings found that he did commit assault and disorderly conduct with a weapon, both crimes involving physical violence and the latter is a felony. Officer D did not appear before the Board, but sent a lengthy pleading challenging the evidence at hearing and offering mitigation. The Board revoked his peace officer certification for commission of the offenses involving violence.

CASE NO. 4

DRUG USE

Officer E tested positive for cocaine during a random drug test. The Board revoked her peace officer certification for the illegal use of a drug.

CASE NO. 5

ON-DUTY INTOXICATION AND OBSCENE PHONE CALL

Officer F, while intoxicated, drove his patrol unit approximately 60 miles from a maintenance site to his home. While in the vehicle, he made a 49-minute obscene phone call to one of the on-duty dispatchers at his agency on a recorded line. Officer F had a hearing before the Office of Administrative Hearings. The administrative law judge found that his actions were malfeasance in office and conduct that would tend to diminish public trust in the law enforcement profession. The Board revoked his certification.

CASE NO. 6

OBSTRUCTING AN INVESTIGATION

Officer G unlawfully accessed ACJIS to obtain vehicle registration information for his own personal use. A little over a year later, he convinced his girlfriend to falsely recant a report of assault she had made against him. The agency found an ACJIS violation and that he committed obstruction of a criminal investigation by conspiring with his girlfriend to make a false report to his agency. He offered no defense to the allegations and the Board revoked his certification.

CASE NO. 7

MALFEASANCE

Detective H seemed to have an interest beyond mere professionalism in the relationship between a fellow county worker and a felon/suspected methamphetamine dealer. The co-worker was in possession of a county car, but had called in sick. Her supervisor phoned her and instructed her to bring the vehicle back to the motor pool as soon as possible. A short time later, Detective H went in search of the co-worker. He observed her riding as a passenger in the county car with the felon driving. They were enroute to the county motor pool. The co-worker claims she was too sick to drive and that was why the felon was driving. The felon spotted Detective H and evaded him. The felon left the co-worker in the car and she proceeded to the motor pool alone. Detective H reported the vehicle stolen. When the co-worker arrived at the motor pool another deputy detained her for

Detective H who arrested and booked her for auto theft and hindering prosecution. The detective then went to the co-worker's home and seized a computer from her bedroom without lawful permission. The detective did not request a hearing to dispute the allegations; however, he wrote a brief note indicating he did not do the things alleged and stated the allegations were politically motivated. He did not appear before the Board. The Board found the allegations were true and revoked his peace officer certification for misfeasance in office by false arrest and improper search and seizure.

CASE NO. 8

DOMESTIC VIOLENCE AND ASSAULT

Officer J engaged in a domestic dispute with his wife regarding an alleged affair. The altercation escalated with him displaying his service weapon. He was convicted of disorderly conduct involving a deadly weapon. The Board revoked his certification.

CASE NO. 9

THEFT

Officer K observed that several bales of hay were stacked on a trailer next to the police station. The hay and trailer had been used in a parade. Officer K took the bales. The department terminated him for stealing the hay. Officer K requested a hearing and the Findings of Fact and Conclusions of Law were that he did steal the hay. The Board revoked his certification for theft.

CASE NO. 10

SEX ON DUTY AND DISHONESTY

Officer L developed a relationship with a clerk at a convenience store, which included sexual conduct both on and off duty. Internal Affairs investigators had contacted her reference an allegation she was having an affair with another officer, which she denied, but did admit this affair. When interviewed by Internal Affairs including being given NOI/Garrity warnings, he repeatedly denied the activity. When finally confronted with the facts from the clerk's interview, he admitted the acts and the dishonesty. The Board revoked his certification.

CASE NO. 11

DISHONESTY AND INSUBORDINATION

Officer M called in sick when he was not ill but was going to a job interview with another agency. He was insubordinate by refusing to bring in a doctor's slip. He admitted telling his supervisor he was ill when he was not, and after appearing before the Board, his certification was suspended for three months.

CASE NO. 12

DRUG USE

Investigator N retired from a municipal department approximately two years ago and then applied with another agency. He admitted on his application that while he was retired he had smoked marijuana. Because his certification was inactive but still in effect when he used the illegal drug, the Board revoked his certification.

CASE NO. 13

SEXUAL HARASSMENT

Officer P had nude pictures of himself on his laptop computer and displayed them to female communications personnel. In addition, he would rent and transport XXX-rated movies while in uniform and on duty. The Board and Officer P agreed to a six-month suspension of his certification.

OTHER ACTIONS:

During this period, the AZPOST Board closed numerous cases without initiating disciplinary action

against the officer's certification because the Board did not believe the rule violations were severe enough to require Board action. All of these officers have been terminated by, or resigned from, their respective departments and will be required to disclose the circumstances when they apply at any other department in the state for peace officer employment. There were 18 cases closed by the Board without issuing a complaint. Some of them involved the following factual situations:

- A rookie officer made insensitive remarks about minorities and gays approximately four times while in the academy and while in FTO.
- An officer lied to his supervisor about which particular profane words he used to express disgust to a different supervisor.
- An officer gave false information to his supervisor about the time and location that he called in a departmental report to the Voice Writer System. The officer came forward with the accurate information the following day.
- An officer was alleged to have engaged in sex on duty, but the investigation was incomplete and the ex-officer's whereabouts are unknown.
- A lieutenant accessed ACJIS for a personal purpose that was also a criminal justice purpose.
- An officer operated his personal vehicle while intoxicated and later asked whether a particular sergeant might be the type to cover up the incident.
- An officer was the subject of a rumor that could not be verified about drinking with underage people.
- An off-duty deputy became intoxicated in local bars and annoyed people, one time passing out.
- A deputy remained out of work after failing to request an extension of medical leave.
- An officer reported to off-duty work with the smell of alcohol on his breath. During an investigation, he was completely truthful about the amount, type and timing of his alcohol consumption, but he was not initially truthful about the tangential facts concerning the person he was with and where he went when he left the bar.
- An officer made a sexual harassment complaint about the chief that was later unfounded.
- An officer who was the subject of a protective order attempted to make a traffic stop on the order holder who was driving an ambulance. When he heard her on the radio he backed off. He was also present in the home of a woman against her husband's knowledge and wishes. It was unclear whether this was trespassing.
- A detective engaged in exaggeration and hyperbole with a co-worker about another agency's handling of a call at his house. He denied the statements to his supervisor when asked. He later admitted to IA that he had in fact made the statements, but that he was just "bullshitting."

While the Board took no direct action in these cases, they do not condone, excuse, nor approve of any of the actions. In some of these cases, the Board directed staff to assure that any hiring agency inquiring about the individual would receive full disclosure from the past agency, under the misconduct reporting statute.